

DEPARTMENT OF TAXATION

Adoption of Chapter 18-231
Hawaii Administrative Rules

_____, 2016

1. Chapter 18-231, Hawaii Administrative Rules, is amended by adding a new section to read as follows:

"18-231-3-1.1 Request for Reconsideration of Assessment. (a) A request for reconsideration of assessment means the process by which a taxpayer requests the department to grant a reconsideration of assessment under section 18-231-3-1.2.

(b) A request for reconsideration of assessment is a purely administrative matter. A taxpayer's appeal rights are unaffected by a request for reconsideration of assessment, and a request for reconsideration of assessment does not constitute an appeal to either the Board of Review or the Tax Appeal Court.

(c) The department may grant or deny any request for reconsideration of assessment in its sole discretion.

(d) A request for reconsideration of assessment shall be made by the taxpayer in writing to the auditor or tax return examiner listed on the Notice of Final Assessment or Denial Letter. The request for reconsideration of assessment shall be signed by the taxpayer and shall include:

- (1) A detailed summary of facts and circumstances that the taxpayer believes would, if taken into consideration, result in a different assessment;
- (2) A list of the new documentation, evidence, or other information that supports the taxpayer's position under paragraph (1); provided that if the department grants a request for reconsideration of assessment under subsection (g), the taxpayer shall

provide all such listed documentation, evidence, or other information within thirty days unless otherwise specified by the department; and

- (3) An explanation of why the taxpayer did not provide the facts, documentation, evidence, or information under paragraphs (1) and (2) during the audit or before the department issued the Notice of Final Assessment or Denial Letter.

(e) The department may through publication add additional requirements for a request for reconsideration of assessment or provide guidance as to the circumstances in which a request may be granted.

(f) The department may require the taxpayer to pay no more than thirty per cent of the assessment prior to granting a request for reconsideration of assessment. The amount paid under this subsection shall be applied according to section 231-27, HRS, and shall not be considered a payment under protest under section 40-35, HRS.

(g) The granting of a request for reconsideration of assessment is merely an acknowledgment that the department will consider the additional documentation, evidence, or other information listed in the taxpayer's request, and in no way ensures or indicates that the department will issue a new, modified, or amended Notice of Final Assessment or Denial Letter after such reconsideration.

(h) The department shall notify the taxpayer in writing of the grant or denial of a request for reconsideration of assessment. If the department elects to grant a request for reconsideration of assessment, the department shall notify the taxpayer in writing that:

- (1) The department has granted the taxpayer's request for reconsideration of assessment; and
- (2) Reconsideration of assessment does not affect the taxpayer's appeal rights and the

taxpayer should take steps to ensure it perfects any appeal rights related to the existing Notice of Final Assessment or Denial Letter." [Eff]
(Auth: HRS §231-3(9)) (Imp: HRS §231-3)

2. Chapter 18-231, Hawaii Administrative Rules, is amended by adding a new section to read as follows:

"§18-231-3-1.2 Reconsideration of Assessment.

(a) For purposes of this section, "reconsideration of assessment" means the process by which the department reevaluates the results of:

(1) A prior audit where tax was assessed and remains unpaid; or

(2) A prior denial of a taxpayer's claim of a refund or tax credit.

(b) Upon granting a request for reconsideration of assessment under section 18-231-3-1.1, the department may:

(1) Request additional substantiation, worksheets, spreadsheets, explanations and other documentation; and

(2) Amend or rescind existing assessments, issue new assessments, or let existing assessments stand in its sole discretion.

(c) A taxpayer that disputes the result of a reconsideration of assessment may pay the full amount in dispute under protest as provided by section 40-35, HRS, or pay the full amount in dispute and participate in the expedited appeals and dispute resolution program as provided by section 231-7.5, HRS." [Eff]

(Auth: HRS §231-3(9)) (Imp: HRS §231-3)

3. Material to be repealed is bracketed and stricken. New material is underscored.

Proposed Hawaii Administrative Rules
Hearing Date: January 6, 2016

4. These amendments to Chapter 18-231, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.